

Convention between
the Government of the Republic of Korea
and
the Government of the Kingdom of Thailand
for the Avoidance of Double Taxation and the Prevention
of Fiscal Evasion with Respect to Taxes on Income

Signed at Hanoi June 27, 2006
Entered into force June 29, 2007

THE GOVERNMENT OF THE REPUBLIC OF KOREA AND THE GOVERNMENT OF THE KINGDOM OF THAILAND,

DESIRING to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income,

have agreed as follows:

Article 1. **【Persons Covered】** [2007.06.29]

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2. **【Taxes Covered】** [2007.06.29]

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The taxes which are the subject of this Convention are:

(a) in Korea:

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the inhabitant tax; and
- (iv) the special tax for rural development

- (hereinafter referred to as "Korean tax"); and
- (b) in Thailand:
- (i) the income tax; and
 - (ii) the petroleum income tax;
- (hereinafter referred to as "Thai tax").

4. The Convention shall also apply to any identical or substantially similar taxes that are imposed by either Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3. **【General Definitions】** [2007.06.29]

1. For the purposes of this Convention, unless the context otherwise requires:

(a) the term "Korea" means the territory of the Republic of Korea, the internal waters and the territorial sea of the Republic of Korea, any area extending beyond the limits of the territorial sea, and the sea-bed and subsoil of any such area, which in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area over which the Republic of Korea has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;

(b) the term "Thailand" means the territory of the Kingdom of Thailand, including its internal waters, its territorial seas, and any maritime areas over which the Kingdom of Thailand has sovereign rights or jurisdiction under international law;

(c) the term "person" includes an individual, a company and any other body of persons as well as any entity as a taxable unit under the taxation laws in force in either Contracting State;

(d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(f) the term "tax" means Korean tax or Thai tax as the context requires;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(h) the term "competent authority" means:

- i) in Korea, the Minister of Finance and Economy or his authorized representative; and
- ii) in Thailand, the Minister of Finance or his authorized representative.

(i) the term "national", in relation to a Contracting States, means:

- i) any individual possessing the nationality of that Contracting State; and
- ii) any legal person, partnership or association and any other entity deriving its status as such from the laws in force in that Contracting State.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4. **【Resident】** [2007.06.29]

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement settle its status and determine the application of the Convention.

Article 5. **【Permanent Establishment】** [2007.06.29]

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" shall also include:

(a) a building site, a construction, installation or assembly project, or supervisory activities in connection therewith, where such site, project or activities continue for a period or periods aggregating more than 6 months;

(b) the furnishing of services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, where activities of that nature continue for the same or a connected project within the other Contracting State for a period or periods aggregating more than 6 months within any twelve-month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise as part of sales-related activities.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6. **【Income From Immovable Property】** [2007.06.29]

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7. **【Business Profits】** [2007.06.29]

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the income or profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts or, in the case of a person who does not claim taxation on the basis of the actual net profits of the permanent establishment, on the basis of certain reasonable percentage of the gross receipts of the permanent establishment, nothing in paragraph 2 of this Article shall preclude such State from determining the income or profits to be taxed by such a method. The method adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8. **【Shipping and Air Transport】** [2007.06.29]

1. Income or profits from the operation of aircraft in international traffic carried on by an

enterprise of a Contracting State shall be taxable only in that Contracting State.

2. Income or profits from the operation of ships in international traffic carried on by an enterprise of a Contracting State may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent thereof.

3. For the purposes of this Article, the terms "income or profits from the operation of ships or aircraft in international traffic" shall include income or profits derived from:

- (a) the rental of ships or aircraft fully equipped, manned and supplied;
- (b) the occasional rental of a ship or aircraft on a bareboat charter; and
- (c) the use, maintenance or rental of containers used for the transport of goods and merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

4. The provisions of paragraphs 1 and 2 shall also apply to income or profits from the participation in a pool, a joint business or an international operating agency.

Article 9. **【Associated Enterprises】** [2007.06.29]

1.?Where?

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any income or profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the income or profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits in accordance with the taxation laws of that other State. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the

Contracting States shall if necessary consult each other.

Article 10. 【Dividends】 [2007.06.29]

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or rights, not being debt-claims, participating in profits or income, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the Contracting State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Nothing in this Convention shall be construed as preventing a Contracting State from imposing tax on the disposal of profits out of a Contracting State in accordance with the provisions of its domestic law. However the tax so imposed shall not exceed 10 per cent of the amount of such profits.

Article 11. 【Interest】 [2007.06.29]

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the interest if it is beneficially owned by any financial institution (including an insurance company);

(b) 10 per cent of the gross amount of the interest if it is beneficially owned by a resident of the other Contracting State and is paid with respect to indebtedness arising as a consequence of a sale on credit by a resident of that other State of any equipment, merchandise or services, except where the sale was between persons not dealing with each other at arm's length; and

(c) 15 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State including political subdivisions and local authorities thereof, the Central Bank of that other State or any financial institution performing functions of a governmental nature and the capital of which is wholly owned by that Government shall be exempt from tax in the first-mentioned State. For purpose of this paragraph, the phrase "the Central Bank" and "financial institution performing functions of a governmental nature and the capital of which is wholly owned by the Government" means:

(a) in the case of Korea:

(i) the Bank of Korea;

(ii) the Korea Export-Import Bank;

(iii) the Korea Development Bank;

(iv) the Korea Investment Corporation; and

(v) such other financial institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States;

(b) in the case of Thailand:

(i) the Bank of Thailand ;

(ii) the Export-Import Bank of Thailand;

(iii) the Government Saving Bank;

(iv) the Government Housing Bank; and

(v) such other financial institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States.

4. The term "interest" as used in this Article means income from debt-claims of every kind,

whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12. **【Royalties】** [2007.06.29]

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the royalties described in subparagraph (a) of paragraph 3;
- (b) 10 per cent of the gross amount of the royalties described in subparagraph (b) of paragraph 3; and
- (c) 15 per cent of the gross amount of the royalties described in subparagraph (c) of paragraph 3.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration:

(a) for the use of or the right to use any copyright of literary, artistic or scientific work, including software, and motion pictures and works on film, tape or other means of reproduction for use in connection with radio or television broadcasting;

(b) for the use of or the right to use any patent, trademark, design or model, plan, secret formula or process;

(c) for the use of or the right to use industrial, commercial or scientific equipments, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or statutory body thereof, or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. **【Capital Gains】** [2007.06.29]

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a

permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

4. Gains from the alienation of shares of the capital stock of a company, or of an interest in a partnership, trust or estate, the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State. In particular:

(a) nothing contained in this paragraph shall apply to a company, partnership, trust or estate, other than a company, partnership, trust or estate engaged in the business of management of immovable properties, the property of which consists directly or indirectly principally of immovable property used by such company, partnership, trust or estate in its business activities;

(b) for the purposes of this paragraph, "principally" in relation to ownership of immovable property means the value of such immovable property exceeding 50 per cent of the aggregate value of all assets owned by the company, partnership, trust or estate.

5. Gains from the alienation of shares other than those mentioned in paragraph 4 representing a participation of more than 25 per cent in a company which is a resident of a Contracting State may be taxed in that State.

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14. **【Independent Personal Services】** [2007.06.29]

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

(a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or

(c) if the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State, and exceeds in the fiscal year 12,000 United States dollars or its equivalent in Korean won or Thai baht; in that case, only so much of the remuneration as is derived therefrom may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15. **【Dependent Personal Services】** [2007.06.29]

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in that other State for a period or periods not exceeding in the aggregate of 183 days within any twelve month period commencing or ending in the taxable year concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be exempt from tax in the other Contracting State.

Article 16. **【Directors ' Fees 】** [2007.06.29]

Directors ' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17. **【Artistes and Sportspersons】** [2007.06.29]

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived from activities performed in a Contracting State by an entertainer or a sportsperson, or provided by a resident of a Contracting State, if the visit to that Contracting State or the resident providing the activities, as the case may be, is substantially supported by public fund of the other Contracting State, including any local authority or statutory body thereof. In such a case the income shall be taxable only in the State of which the entertainer, sportsperson or the enterprise is a resident.

Article 18. 【Pensions】 [2007.06.29]

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration in consideration of past employment from sources within one of the Contracting States and paid to a resident of the other Contracting State may be taxed in the first-mentioned State.

Article 19. 【Government Service】 [2007.06.29]

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision, a local authority or statutory body thereof to an individual in respect of services rendered to that State or political subdivision, local authority or statutory body thereof shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration, shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision, a local authority or statutory body thereof to an individual in respect of services rendered to that State or a political subdivision, local authority or statutory body thereof shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual

is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration or pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, a local authority or statutory body thereof.

4. The provisions of paragraphs 1 and 2 shall likewise apply in respect of remuneration or pensions paid by:

(a) in the case of Korea, the Bank of Korea, the Export-Import Bank of Korea, the Korea Trade Promotion Corporation and other government- owned institutions performing functions of a governmental nature, as may be agreed from time to time between the competent authorities of the Contracting States; and

(b) in the case of Thailand, the Bank of Thailand, the Export-Import Bank of Thailand and other government-owned institutions performing functions of a governmental nature, as may be agreed from time to time between the competent authorities of the Contracting States.

Article 20. 【Professors and Teachers】 [2007.06.29]

1. An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of the other Contracting State or of a university or other accredited educational institution of the equivalent level situated in the other Contracting State, visits the latter Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other accredited educational institution of the equivalent level shall be exempt from tax by the latter Contracting State on his income from personal services for teaching or research at such educational institution, or at other such institutions, for a period not exceeding two years from the date of his arrival in the latter Contracting State.

2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

Article 21. 【Students and Apprentices】 [2007.06.29]

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22. 【Other Income】 [2007.06.29]

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles and arising in the other Contracting State may be taxed in that other State.

Article 23. **【Methods for Elimination of Double Taxation】** [2007.06.29]

1. Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof), Thai tax payable (excluding, in the case of dividend, tax payable in respect of profits out of which the dividend is paid) under the laws of Thailand and in accordance with the provisions of this Convention, whether directly or by deduction, in respect of income from sources within Thailand shall be allowed as a credit against Korean tax payable in respect of that income. The amount of credit shall not, however, exceed that part of Korean tax as computed before the credit is given, which is appropriate to that income.

2. For the purposes of paragraph 3, the term "Korean tax payable" shall be deemed to include Korean tax which would, under the laws of Korea and in accordance with this Convention, have been payable on any income derived from sources within Korea had the income not been taxed at a reduced rate or exempted from Korean tax in accordance with the provisions of this Convention and the special incentives under the Korean laws for the promotion of economic development of Korea which were in force on the date of signature of this Convention or any other provisions which may subsequently be introduced in Korea in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character. The amount of the tax referred to in this paragraph shall not, however, exceed:

- (a) in the case of the dividends an amount of 10 per cent of the gross amount of such dividends;
- (b) in the case of interest an amount of 10 per cent of the gross amount of such interest; and
- (c) in the case of royalties:
 - (i) an amount of 5 per cent of the gross amount of such royalties as described in subparagraph (a) of paragraph 3 of the Article 12;

(ii) an amount of 10 per cent of the gross amount of such royalties as described in subparagraph (b) of paragraph 3 of the Article 12; and

(iii) an amount of 15 per cent of the gross amount of such royalties as described in subparagraph (c) of paragraph 3 of the Article 12.

3. In accordance with the provisions of the law of Thailand (which shall not affect the principle hereof), Korean tax payable in respect of income or profits derived in Korea shall be allowed as a credit against Thai tax payable in respect of that income or profits. The credit shall not, however, exceed that part of the tax payable in Thailand as computed before the credit is given, which is appropriate to such item of income or profits.

4. For the purposes of paragraph 1, the term "Thai tax payable" shall be deemed to include Thai tax which would, under the laws of Thailand and in accordance with this Convention, have been payable on any income derived from sources within Thailand had the income not been taxed at a reduced rate or exempted from Thai tax in accordance with the provisions of this Convention and the special incentives under the Thai laws for the promotion of economic development of Thailand which were in force on the date of signature of this Convention or any other provisions which may subsequently be introduced in Thailand in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character. The amount of the tax referred to in this paragraph shall not, however, exceed:

(a) in the case of the dividends an amount of 10 per cent of the gross amount of such dividends;

(b) in the case of interest an amount of 10 per cent of the gross amount of such interest; and

(c) in the case of royalties:

(i) an amount of 5 per cent of the gross amount of such royalties as described in subparagraph (a) of paragraph 3 of the Article 12;

(ii) an amount of 10 per cent of the gross amount of such royalties as described in subparagraph (b) of paragraph 3 of the Article 12; and

(iii) an amount of 15 per cent of the gross amount of such royalties as described in subparagraph (c) of paragraph 3 of the Article 12.

5. Notwithstanding paragraphs 2 and 4 of this Article, a resident of a Contracting State deriving income from the other Contracting State, being income referred to in that paragraph, shall not be deemed to have paid tax in respect of such income where the competent authority of a Contracting State considers, after consultation with the competent authority of the other Contracting State, that it is inappropriate to entitle the benefits of paragraphs 2 and 4 of this Article to the said resident, having regard to:

(a) whether any arrangements have been entered into by any person for the purpose of taking advantage of paragraphs 2 and 4 of this Article for the benefits of that person or any other person; or

(b) whether any benefit accrues or may accrue to any person who is neither a resident of a Contracting State nor a resident of the other contracting State; or

(c) the prevention of fraud, evasion or avoidance of the taxes to which this Convention applies.

6. The provisions of paragraphs 2 and 4 of this Article shall only apply for the first 5 years from the date from which this Convention is effective. The competent authorities may decide by mutual agreement to extend the period of application of paragraphs 2 and 4 of this Article.

Article 24. **【Non-Discrimination】** [2007.06.29]

1.?Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. In this Article the term "taxation" means taxes which are the subject of this Convention.

Article 25. **【Mutual Agreement Procedure】** [2007.06.29]

1.?Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the State of which he is a national. The case must be

presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26. **【Exchange of Information】** [2007.06.29]

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.
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Article 27. **【Members of Diplomatic Missions and Consular Posts】** [2007.06.29]

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28. **【Entry into Force】** [2007.06.29]

1. The Governments of the Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

(a) in Korea:

(i) in respect of taxes withheld at the source on amounts paid or credited to non-residents, on or after the first day of January in the calendar year next following that in which the Convention enters into force; and

(ii) in respect of other taxes, for taxation years beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force;

(b) in Thailand:

(i) in respect of taxes withheld at source, on amounts of income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force; and

(ii) in respect of other taxes on income, on such taxes chargeable for any tax year or accounting period, beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

3. The Convention between the Republic of Korea and the Kingdom of Thailand for the Avoidance of Double Taxation with respect to Taxes on Income signed at Bangkok on August 26, 1974 shall terminate and cease to have effect from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph 2.

Article 29. **【Termination】** [2007.06.29]

??This Convention shall remain in force indefinitely but either Contracting State may, on or before the thirtieth day of June in any calendar year from the fifth year from that in which this Convention was signed, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event this Convention shall cease to have effect:

(a) in Korea:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the notice is

given; and

(ii) in respect of other taxes for taxation years (income years) beginning on or after the first day of January in the calendar year next following that in which the notice is given;

(b) in Thailand:

(i) in respect of taxes withheld at source, on amounts of income derived on or after in first day of January in the calendar year next following the year in which the notice is given; and

(ii) in respect of other taxes on income, on such taxes chargeable for any tax year or accounting period beginning on or after the first day of January in the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Hanoi, this 16th day of November 2006, in the Korean, Thai and English languages, all texts being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA FOR THE GOVERNMENT OF THE KINGDOM OF THAILAND

[2007.06.29]

PROTOCOL

At the signing of the Convention between the Government of the Republic of Korea and the Government of the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as "the Convention"), the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

1. With reference to Article 1 of the Convention, it is understood that the Convention shall not apply to any company, trust or other entity that is a resident of a Contracting State and is beneficially owned or controlled, directly or indirectly, by one or more persons who are not residents of that State, if the amount of the tax imposed on the income of the company, trust or other entity by that State (after taking into account any reduction or offset of the amount of tax in any manner, including a refund, reimbursement, contribution, credit or allowance to the company, trust, or other entity or to any other person) is substantially lower than the amount that would be imposed by that State if all of the shares of the capital stock of the company or all of the

interests in the trust or other entity, as the case may be, were beneficially owned by one or more individuals who were residents of that State. However, this paragraph shall not apply if 90 per cent or more of the income on which the lower amount of tax is imposed is derived exclusively from the active conduct of a trade or business carried on by it, other than an investment business. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this paragraph.

2. With reference to paragraph 2 of Article 5 of the Convention, the term "permanent establishment" is understood to include a warehouse in relation to a person providing storage facilities for others.

3. With reference to paragraph 2 of Article 8 of the Convention, it is understood that if in any Agreement or Convention concluded by Thailand with a third State, being a member of the Organization for Economic Cooperation and Development, Thailand would agree on reduction of the rate or exemption of tax provided in paragraph 2 of Article 8, such a reduced rate shall apply under the same conditions through mutual agreement procedures.

4. With reference to paragraph 4 of Article 11 of the Convention, the term "interest" is understood to include all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Hanoi, this 16th day of November 2006, in the Korean, Thai and English languages, all texts being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA THE REPUBLIC OF THAILAND
